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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MARK ROGERS,

Petitioner,

v.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 3:02-cv-00342-GMN-VPC

ORDER

In this habeas corpus action, the Court has granted the petitioner, Mark Rogers, an evidentiary hearing with respect to Ground 5 of Rogers' second amended habeas petition. See Order entered November 6, 2017 (ECF No. 215); Order entered November 28, 2017 (ECF No. 217). The evidentiary hearing will commence on October 22, 2018. See Order entered March 14, 2018 (ECF No. 222).

On September 7, 2018, Rogers filed an "Unopposed Motion for Petitioner Mark Rogers to Appear by Video" (ECF No. 245). In that motion, Rogers' counsel represents that Rogers does not wish to travel to Las Vegas for the evidentiary hearing. See Motion (ECF No. 245), p. 1. Rogers' counsel requests that the Court approve Rogers' appearance by video at the evidentiary hearing. Respondents do not oppose this request. See *id.* at 1-2. The Court will approve Rogers' appearance at the evidentiary hearing by video, and will order the respondents to make the arrangements at the prison for such appearance. The Court will order Rogers' counsel to file a notice stating whether an

1 attorney representing Rogers will be present at the prison to consult with Rogers during
2 the evidentiary hearing.

3 Rogers also requests that the Court allow Rogers to appear by video at the status
4 conference scheduled for October 2, 2018. The Court will deny this request, however, as
5 moot. The Court determines that the status conference, which was set to address the
6 question of Rogers' appearance at the evidentiary hearing, is no longer necessary; the
7 October 2, 2018 status conference will be vacated.

8 **IT IS THEREFORE ORDERED** that the petitioner's "Unopposed Motion for
9 Petitioner Mark Rogers to Appear by Video" (ECF No. 245) is **GRANTED IN PART AND**
10 **DENIED IN PART**, as follows.

11 **IT IS FURTHER ORDERED** that the petitioner's request for the petitioner, Mark
12 Rogers, to appear at the evidentiary hearing by video is granted.

13 **IT IS FURTHER ORDERED** that the respondents are to make arrangements at
14 the prison where the petitioner is incarcerated to have the petitioner appear by video at
15 the evidentiary hearing.

16 **IT IS FURTHER ORDERED** that the petitioner is to file a notice, within one week
17 from the date of this order, stating whether an attorney representing the petitioner will be
18 present at the prison to consult with the petitioner during the evidentiary hearing.

19 **IT IS FURTHER ORDERED** that the status conference set for October 2, 2018, at
20 10:00 a.m. is vacated.

21 **IT IS FURTHER ORDERED** that the petitioner's request to appear by video at the
22 October 2, 2018, status conference is denied as moot.

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